

# **Senate File 2257 - Introduced**

SENATE FILE 2257  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3058)

## **A BILL FOR**

1 An Act defining marketplace contractors and designating  
2 marketplace contractors as independent contractors under  
3 specified circumstances.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   **93.1 Definitions.**

2     As used in this chapter, unless the context otherwise  
3 requires:

4     1. "*Governmental entity*" means the same as defined in  
5 section 96.19.

6     2. "*Indian tribe*" means the same as defined in section  
7 96.19.

8     3. *a.* "*Marketplace contractor*" means a person or  
9 organization, including an individual, corporation, limited  
10 liability company, partnership, sole proprietor, or other  
11 entity, that does all of the following:

12       (1) Enters into a written agreement with a marketplace  
13 platform to use the marketplace platform's digital network  
14 to connect with individuals or entities that seek to obtain  
15 services from the marketplace contractor.

16       (2) Performs services for individuals or entities upon  
17 connection through a marketplace platform's digital network in  
18 exchange for compensation or payment of a fee.

19       (3) Does not perform the services offered by the marketplace  
20 contractor at or from a physical business location that is  
21 operated by the marketplace platform in the state.

22     *b.* "*Marketplace contractor*" does not include a person or  
23 organization that performs services consisting of transporting  
24 freight, sealed and closed envelopes, boxes, parcels, or other  
25 sealed and closed containers for compensation.

26     4. "*Marketplace platform*" means a person or organization,  
27 including an individual, corporation, limited liability  
28 company, partnership, sole proprietor, or other entity, that  
29 operates a digital network to connect marketplace contractors  
30 to individuals or entities that seek to obtain the type of  
31 services offered by marketplace contractors.

32     Sec. 2. NEW SECTION.   **93.2 Marketplace contractors as**  
33 **independent contractors — retroactivity.**

34     1. A marketplace contractor shall be treated as an  
35 independent contractor, and not an employee of a marketplace

1 platform, for all purposes under state or local law, including  
2 but not limited to chapters 87 and 96, if the following  
3 conditions are met:

4     *a.* The marketplace contractor and marketplace platform agree  
5 in writing that the marketplace contractor is engaged as an  
6 independent contractor and not an employee of the marketplace  
7 platform.

8     *b.* The marketplace platform does not unilaterally prescribe  
9 specific hours during which the marketplace contractor must  
10 be available to accept service requests submitted through the  
11 marketplace platform's digital network.

12     *c.* The marketplace platform does not prohibit the  
13 marketplace contractor from engaging in outside employment or  
14 performing services through other marketplace platforms.

15     *d.* The marketplace contractor bears its own expenses  
16 incurred in performing services.

17     2. For services performed by a marketplace contractor prior  
18 to the effective date of this Act, a marketplace contractor  
19 shall be treated as an independent contractor and not an  
20 employee of a marketplace platform for all purposes under state  
21 or local law, including but not limited to chapters 87 and 96,  
22 if the conditions set forth in subsection 1 were satisfied at  
23 the time the services were performed.

24     3. This section shall not apply to any of the following:

25     *a.* Services performed by an individual in the employ  
26 of a governmental entity or Indian tribe, but only if the  
27 services are excluded from employment as defined in the Federal  
28 Unemployment Tax Act, 26 U.S.C. §3301-3311, solely by reason of  
29 section 3306(c)(7) of that Act.

30     *b.* Services performed by an individual in the employ of a  
31 religious, charitable, educational, or other organization, but  
32 only if the services are excluded from employment as defined in  
33 the Federal Unemployment Tax Act, 26 U.S.C. §3301-3311, solely  
34 by reason of section 3306(c)(8) of that Act.

35     *c.* Services performed by a real estate broker or a real

1 estate salesperson licensed pursuant to chapter 543B.

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with  
4 the explanation's substance by the members of the general assembly.

5 This bill relates to marketplace contractors.

6 The bill defines "marketplace contractor" to mean a  
7 person or entity that enters into a written agreement with a  
8 marketplace platform to use its digital network to connect  
9 with individuals or entities that seek to obtain services  
10 from the marketplace contractor, performs services for  
11 individuals or entities upon connection through a marketplace  
12 platform's digital network for payment, and does not perform  
13 the services at or from a physical business location operated  
14 by the marketplace platform. "Marketplace contractor"  
15 does not include a person or organization that transports  
16 freight, sealed and closed envelopes, boxes, parcels, or other  
17 sealed and closed containers for payment. The bill defines  
18 "marketplace platform" to mean a person or entity that operates  
19 a digital network to connect marketplace contractors to  
20 individuals or entities seeking the type of services offered by  
21 marketplace contractors.

22 The bill provides that a marketplace contractor shall be  
23 treated as an independent contractor, and not an employee of  
24 a marketplace platform, for all purposes under state or local  
25 law, if the following conditions occur: the parties agree  
26 in writing that the marketplace contractor is an independent  
27 contractor and not an employee of the marketplace platform; the  
28 marketplace platform does not unilaterally prescribe specific  
29 hours during which the marketplace contractor must be available  
30 to accept service requests; the marketplace platform does not  
31 prohibit the marketplace contractor from engaging in outside  
32 employment or performing services through other marketplace  
33 platforms; and the marketplace contractor bears its own  
34 expenses incurred in performing services.

35 The bill provides that for services performed by a

1 marketplace contractor prior to the effective date of the bill,  
2 a marketplace contractor shall be treated as an independent  
3 contractor if the conditions set forth in the bill were  
4 satisfied at the time the services were performed.

5     The bill specifies that the bill does not apply to services  
6 performed by an individual in the employ of a government entity  
7 or Indian tribe, as defined in the bill, services performed  
8 by an individual in the employ of a religious, charitable,  
9 educational, or other organization, but only if the services  
10 are excluded from the definition of employment in the Federal  
11 Unemployment Tax Act, or services performed by a licensed real  
12 estate broker or real estate salesperson.